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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/099,869	03/15/2002	William D. Gehn	R353.12-0002	4462

7590 01/07/2004
WESTMAN, CHAMPLIN & KELLY
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EXAMINER

KAUFMAN, JOSEPH A

ART UNIT	PAPER NUMBER
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3754

DATE MAILED: 01/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/099,869

Applicant(s)

GEHN ET AL.

Examiner

Joseph A. Kaufman

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 18,22 and 28-33 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16,17 and 19-21 is/are allowed.
- 6) ☒ Claim(s) 1-4,12,13,15 and 23-27 is/are rejected.
- 7) ☒ Claim(s) 5-11 and 14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Election/Restrictions

1. Applicant's election of specie A in Paper No. 7 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 18, 22 and 28-33 have been withdrawn from consideration.

Claim Objections

2. Please note, in claim 1, line 8, it appears "rotatably" should be "rotatable".

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 12, 13, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Koeneman et al.

Koeneman et al. shows a casing 22, 38 (section 38 being cylindrical) having an interior; inlet at the top of 22; outlet 30 that is conical as seen in Figure 3 at 56; carousel 24; motor assembly 26; axis along motor shaft 36; cone shaped portion 46; ribs/blades 48; hollow portion 52 that receives the motor shaft; and the device can be in a refrigerated cabinet if it is in an ice maker (see column 3, lines 46-52).

5. Claims 23-27 as broadly recited are rejected under 35 U.S.C. 102(b) as being anticipated by Goudy, Jr. et al.

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Goudy, Jr. et al. teaches rotating the carousel in a first direction during a first dispensing cycle (when there is no resistance) and a second direction during a second dispensing cycle (when there is resistance) as noted in column 7, lines 30-39; loading the container on a platform using slots and raised edge portions 14, 15 and seen in Figure 1; slidably removing cover 23 (it slides over the top edge) in order to dispense as the removal of the cover allows the material to be loaded into the container; and one can unload the container by sliding portions 14 and 15 away from each other.

Allowable Subject Matter

6. Claims 16, 17 and 19-21 are allowed.
7. Claims 5-11 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Radosevich shows a conical outlet; and Dumont, Berwick et al., and De Motte show other rotating carousels.
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph A. Kaufman whose telephone number is (703) 308-0266. The examiner can normally be reached on Monday-Friday (second Mondays off), 5:30AM-3PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on (703) 308-2696. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0975.


Joseph A. Kaufman
Primary Examiner
Art Unit 3754
1/7/04

jak
January 7, 2004